



THE SECRETARY OF DEFENSE

WASHINGTON, THE DISTRICT OF COLUMBIA

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MEMORANDUM FOR MEMBERS OF THE CABINET

SUBJECT: Air Transportation for Cabinet Members

I have been extremely concerned with the more or less negative response within the Department of Defense to my requests that air transportation be furnished on a non-reimbursable basis to Cabinet members when space is available, so I asked to have a complete review of all of the current laws and regulations relating to the use of DoD aircraft. I now have been advised as follows:

(1) Our actions have to be based on two fundamental statutes: 31 USC 628, which requires that monies appropriated by Congress for a particular purpose be used only for that purpose; and 31 USC 638a, which requires that all Department transportation resources be used only for official purposes. This leads to the conclusion that DoD transportation assets must be used for "defense" purposes unless otherwise specifically authorized by law.

(2) We are specifically authorized to provide transportation to another government agency, provided it is in the national interest to do so, and is on a reimbursable basis (31 USC 686). This same statute (the Economy Act), prohibits any competition with private agencies in the provision of transportation services to other government agencies.

(3) I am told that over the years our policies have been consistent with these statutes and required that unreimbursed travel must be for defense matters because of the above restrictions on the use of the Department's resources. To authorize travel for Cabinet members when space is available without reimbursement would require authorizing legislation, which we are quite prepared to support if it became Administration policy.

(4) The question has been raised as to how Members of Congress travel on government aircraft without reimbursing the Department. This occurs when there is a certificate in writing given by the Committee Chairman that the proposed Congressional

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travel is in the "defense interest." It is considered to be in the "defense interest" to provide transportation in connection with Congressional investigations and evaluations of DoD programs. 31 USC 22a provides the statutory basis for these expenditures.

Summing up all of the above, our General Counsel advises me that if we do not receive reimbursement for the cost of Cabinet travel, then we are authorizing the use of defense funds for purposes other than appropriated by Congress. Of course, if the transportation is provided to any individual at the direction of the Commander-in-Chief, that is presumed to be in furtherance of defense activities. I would be glad to discuss this with any of you individually. I had hoped that we might uncover some legal opportunity to provide transportation to all on request. Unfortunately, our examination of the laws failed to find any such provision.

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